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REMARKS

Claims 6, 13 and 22-34 presently appear in this case. All of these claims have been allowed. The rejected claims have now been deleted in order to facilitate allowance of this case. Claim 6 has been amended pursuant to a telephone discussion with the examiner. Accordingly, it is submitted that the present application is in condition for allowance.

In the Advisory Action of June 21, 2000, the examiner indicated that claims 6, 13 and 22-34 were allowed, but that the rejection of claims 35-38 was maintained as both compositions are being applied to the oral cavity, and, therefore, a side-by-side showing was needed to establish non-obviousness.

In order to facilitate passage to issue of the present application, claims 35-38 have now been deleted without prejudice towards the continuation of prosecution thereof in a continuing application.

In a telephone interview between the undersigned and Examiner Goldberg on or about July 18, 2000, applicant explained why it was important to delete the specific dosage amount which had been added to claim 6 in applicant's supplemental amendment of November 10, 1999. We pointed out to the examiner that patent 5,997,858 from the laboratory of

the present inventors was filed on even date with the filing of the present application, and was directed to the treatment of neoplastic conditions using amounts of interferon which are not in excess of a dose of the same interferon which induces a pathological response when parenterally administered. The present application is directed to a method for treating a neoplastic condition using interferon in amounts which are in excess of a dose of the same interferon which induces a pathological response when parenterally administered. Thus, between the two patents, it does not matter where is the exact point of demarcation between a pathological or non-pathological response when administered parenterally. We explained that it is believed that the point of demarcation is somewhat less than 20×10^6 IU. If this is the case and the present claims are limited to the 20×10^6 IU demarcation point, then there would be an empty range without patent coverage. Accordingly, it was urged that the deletion of this phrase which was added by applicant's supplemental amendment of November 10, 1999, at the urging of the examiner following the previous interview in this case, would not leave the claims indefinite. Thus, as claim 6 is otherwise allowable, the examiner was requested to allow us to remove this limitation.

In the course of the telephone interview, Examiner Goldberg said that he would be favorably disposed to permit such an amendment in claim 6. Accordingly, the present amendment deletes this phrase pursuant to the agreement reached in the telephone interview. The claims are not indefinite as those of ordinary skill in the art can reasonably determine whether any given amount is in excess of a dose of the same interferon which induces a pathological response when parenterally administered. Furthermore, any given dose will infringe either the Tovey et al patent 5,997,858 or the patent which issues from the present application, as all dosages are covered. Because a terminal disclaimer has been filed in this case, the two patents must always be commonly owned and will expire on the same date. Thus, the line of demarcation is not that important.

Accordingly, entry of both the present supplemental amendment and the amendment of June 9, 2000, and passage of the present application to issue are earnestly solicited.

Respectfully submitted,

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